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PTO/SB/65 (03-09)

Approved for use through 03/31/2012, OMB 0651-0018  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)  
44428-02

Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300

02/08/2013 DALLEN 00000009 6475047

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2150.00 OP

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at  
(571) 272-3282

Patent Number: 6,475,047Application Number: 09/785,941Issue Date: 11-05-2002Filing Date: 02-16-2001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.368(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

- ☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

January 31, 2013

Date

/Robert P. Michal/

Signature

Robert P. Michal

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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PTO/SB/05 (03-08)

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## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1450.00	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1450.00

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700.00

## 5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ \_\_\_\_\_
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☒ Payment by credit card.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 02-2275

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0003/009

PTO/SB/55 (03-00)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 02-2275

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

/Robert P. Michal/

January 31, 2013

Signature(s) of Petitioner(s)

Date

Robert P. Michal

35,614

Typed or printed name(s)

Registration Number, if applicable

475 Park Avenue South, 15th Floor

212-661-8000

Address

Telephone Number

New York, New York 10016

Address

## ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other:

PTO/SB/85 (03-09)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

/Robert P. Michal/

Signature

January 31, 2013

Date

Robert P. Michal

Type or printed name

35,814

Registration Number, if applicable

**STATEMENT**

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

SEE ATTACHED STATEMENT

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*(Please attach additional sheets if additional space is needed)*

[Page 4 of 4]

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0005/009

PATENT

Docket No. 44428-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee: Sam Cynamon  
Patent No.: 6,475,047  
Issue Date: November 5, 2002  
Serial No: 09/785,941  
Filed: February 16, 2001  
For: RESCUE DEVICE  
Examiner: Sherman Basinger  
Art Unit: 3617  
Confirmation No.: 4399

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

STATEMENT

S I R:

I, Robert P. Michal, hereby declare that:

I am registered to practice before the U.S. Patent and Trademark Office. I was formerly employed at the law offices of Frishauf, Holtz, Goodman & Chick, located at 220 Fifth Avenue, New York, NY 10001. In April, 2010, I joined the law firm of Lucas & Mercanti, LLP.

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During my change of offices from Frishauf, Holtz, Goodman & Chick to Lucas & Mercanti, LLP, numerous clients indicated that they wanted me to continue handling their matters, and they therefore authorized Frishauf, Holtz, Goodman & Chick to transfer responsibility for their matters to me at my new office. As clients provided their authorization to transfer responsibility for matters to me from my former firm to my new firm, files and docket reports were provided by my former firm to me at my new firm. Upon receiving the docket reports from my former firm, the information was provided to the docket department of Lucas & Mercanti, LLP to have all of the matters for which responsibility was being transferred entered into the Lucas & Mercanti docket system. On or about April, 2010, Sam Cynamon, the Patentee of USP 6,475,047, requested that responsibility for his patent matters, including USP 6,475,047, be transferred to me at my new office.

On January 30, 2013, I received a telephone call from Sam Cynamon inquiring as to the status of USP 6,475,047. Specifically, Mr. Cynamon inquired as to whether the necessary second maintenance fee had been submitted to the U.S. Patent Office in connection with USP 6,475,047 to maintain this patent. I advised Mr. Cynamon that if the patent was in our docket system, that the maintenance fee would have certainly been paid. During my telephone conference with Mr. Cynamon, I accessed the PAIR

system through the Patent Office website, and discovered that USP 6,475,047 had expired due to the non-payment of maintenance fees under 37 CFR 1.362. I also confirmed with Mr. Cynamon that he did not receive any notification that the maintenance fee was due on USP 6,475,047.

Thereafter, I checked the Lucas & Mercanti, LLP records for all of the matters that were transferred from the offices of Frishauf, Holtz, Goodman & Chick to Lucas & Mercanti, LLP, and discovered that USP 6,475,047 and the corresponding office file were not transferred to the offices of Lucas & Mercanti, LLP, nor was the patent listed in the docket reports provided by Frishauf, Holtz, Goodman & Chick to Lucas & Mercanti, LLP. As a result, USP 6,475,047 was not entered into the docket system of Lucas & Mercanti, LLP, nor was a change of correspondence address and attorney/agent information submitted to the Patent Office. The Patent Office records still identify Frishauf, Holtz, Goodman & Chick as the correspondent, although the name of the firm has slightly changed since my departure in April, 2010 to Holtz, Holtz, Goodman & Chick, and the Patent Office records have been updated to reflect the change of firm name.

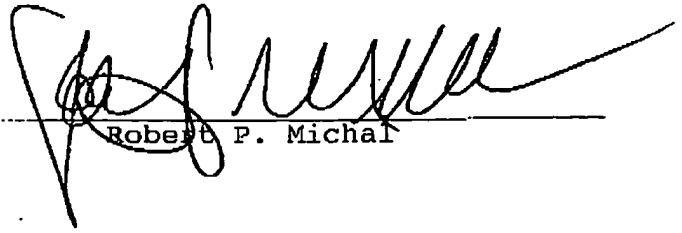
Since my current firm, Lucas & Mercanti, LLP, was not identified as the correspondent in connection with this matter, any Patent Office notices regarding the issued patent would not

have been sent to me at my current firm, but instead to the offices of Frishauf, Holtz, Goodman & Chick. In addition, no Patent Office notices were forwarded from Frishauf, Holtz, Goodman & Chick to Lucas & Mercanti, LLP to advise of any patent maintenance fee coming due or past due.

This Statement and the corresponding Petition to Accept Unavoidably Delayed Payment of Maintenance Fee in an Expired Patent is being submitted one (1) day after the undersigned and the Patentee became aware of the expired status of USP 6,475,047 due to the non-payment of the second maintenance fee.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date January 31, 2013

  
\_\_\_\_\_  
Robert P. Michal